

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAKITA L. SMITH,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

No. 11-CV-0948-DRH

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

On October 21, 2011, Jakita L. Smith filed a complaint against the Commissioner of Social Security, for judicial review of an administrative agency's decision (Doc.2). Specifically, Smith seeks judicial review of the Commissioner's decision regarding her claims for supplemental social security benefits which adversely affects her. Now before the Court is Smith's motion to proceed *in forma pauperis* (Doc. 3). Because the Court finds that Smith is indigent, the Court grants the motion.

By granting a motion for pauper status, a court authorizes a lawsuit to proceed without prepayment of fees. Under 28 U.S.C. § 1915(e)(2), the Court must screen any indigent's complaint (those filed by prisoners and non-prisoners alike) and dismiss the complaint if (a) the allegation of poverty is untrue, (b) the action is frivolous or malicious, (c) the action fails to state a claim upon which can be granted,

or (d) the action seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Smith's motion survives § 1915(e)(2) review. She signed a declaration contained in her motion to proceed *in forma pauperis* documenting her poverty. The action appears to be neither frivolous nor malicious. At this point, the Court cannot conclude that the complaint fails to state a claim or that the named defendant is immune from suit.

Accordingly, the Court **GRANTS** Smith's application to proceed *in forma pauperis* (Doc. 3). The Clerk of Court is **DIRECTED** to provide plaintiff's counsel with a blank form of summons and three blank forms USM-285. If counsel chooses to have the United States Marshals Service effect service on plaintiff's behalf, counsel shall complete these documents and return them to the Clerk of Court; the Clerk **SHALL** issue the completed summons. Pursuant to Federal Rule of Civil Procedure 4(i), the United States Marshal **SHALL** (1) send by registered or certified mail a copy of the summons, the complaint, and this Memorandum and Order to defendant; (2) personally deliver to or send by registered or certified mail addressed to the civil-process clerk at the office of the United States Attorney for the Southern District of Illinois a copy of the summons, the complaint, and this Memorandum and Order; and (3) send by registered or certified mail to the Attorney General of the United States at Washington, D.C., a copy of the summons, the complaint, and this Memorandum and Order. All costs of service shall be advanced by the United States, and counsel shall provide all necessary materials and copies to the United States Marshals Service.

Plaintiff is **ADVISED** pursuant to Rule 4(m) that this action may be dismissed without prejudice if service is not effected within 120 days of the date of this Memorandum and Order.

IT IS SO ORDERED.

Signed this 25th day of October, 2011.

 Digitally signed by
David R. Herndon
Date: 2011.10.25
12:40:25 -05'00'



Chief Judge
United States District Court